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Administration of justice at the United Nations

Letter dated 5 November 2010 from the Secretary-General addressed to the President of the General Assembly

I have the honour to transmit the letter dated 20 October 2010 that I received from Judge Jean Courtial, President of the United Nations Appeals Tribunal (see annex), forwarding a note that sets out the views of the judges of the Tribunal on their status and the Appeals Tribunal Registry.

The President requests that the note be circulated as a document of the General Assembly.

(*Signed*) **BAN** Ki-moon

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Annex

I would like to avail myself of this opportunity to present my compliments to you, and have the honour to transmit the views of the judges of the United Nations Appeals Tribunal regarding their status and the situation of the Appeals Tribunal Registry (see enclosure).

I should be grateful if the enclosed note could be circulated as a document of the General Assembly, under agenda item 140.

(*Signed*) Jean **Courtial**
President

Enclosure

Further improvements are necessary for the United Nations Appeals Tribunal

After meeting in a plenary session — and with the experience gained during the first year of operation — the judges of the United Nations Appeals Tribunal believe that the following improvements are necessary.

1. **The status of the United Nations Appeals Tribunal judges — or lack of it — has impeded the professional functioning of the Tribunal. The judges of the United Nations Appeals Tribunal should be accorded status equal to a Cabinet member in the United Nations system.**

The authority of the United Nations Appeals Tribunal in the new system of administration of justice in the United Nations, its judgements and its emerging jurisprudence, as well as its independence to a certain extent, depend on the position of its judges in the United Nations Organization. If the Appeals Tribunal judges are not treated decently, as, according to the statute of the Tribunal (article 3), professional, senior (at least 15 years of judicial experience) judges, the goal to establish an independent, professionalized system of justice will be put at serious risk.

Judges have been accorded a low status. The United Nations system is rank conscious. Even with respect to such major issues as the allocation of temporary office space, issues have been raised that the status of the judges is "too low" to qualify for certain space. And decisions made by officials with low status (D-2) are given less weight. Not to mention issues of judicial independence.

Because Appeals Tribunal judges are paid on a per case basis, raising the status will have minimal financial implications.

The Internal Justice Council recalls in its report (A/65/304, para. 35) that:

> ... in paragraph 7 of its resolution 64/233, the General Assembly requested the Secretary-General to report to it at the sixty-fifth session on the status of judges of the Appeals Tribunal, and their entitlements, including travel and daily subsistence allowance ... it is therefore very desirable to attract to its ranks the ablest judges from national superior courts, who have senior ranking in their own countries. This matter has not been raised with a view to increasing the remuneration of judges [Appeals Tribunal judges are not paid a salary] and therefore the possibility of detaching questions of remuneration from rank should be investigated. The Council suggests reconsideration of this issue by the General Assembly.

The Secretary-General accordingly recommends in his report (A/65/373, para. 241):

> (f) With respect to travel entitlements for the Appeals Tribunal judges, the Secretary-General recommends that travel privileges that were provided to the former judges of the United Nations Administrative Tribunal be accorded to the Appeals Tribunal judges ...

2. **Staffing of the Appeals Tribunal Registry is drastically inadequate. At the very minimum, two additional legal officers and two additional legal assistants should be added.**

In both the report of the Internal Justice Council and the report of the Secretary-General this crucial issue is addressed with similar wording.

The Internal Justice Council notes in its report (A/65/304):

> 36. At present, the Appeals Tribunal has a Registrar, a P-3 legal officer, a legal assistant at G-6 level and an administrative assistant at G-5. From 1 July 2009 to 30 June 2010, the Appeals Tribunal had a caseload of 110 cases, including 19 transferred from the old system in January 2010. After two sessions, decisions have been handed down in 64 cases.... The experience of the last two sessions of the Appeals Tribunal is that, with its current staffing, the registry is unable to prepare the legal memoranda and summaries of issues to the standard and with the speed necessary for the judges to carry out their work effectively and efficiently.... A useful comparison can be drawn with the International Labour Organization Administrative Tribunal (upon which the Appeals Tribunal is modelled), which also handles approximately 110 cases per year and has seven lawyers in the registry, as well as the Registrar and Assistant Registrar, two secretaries, a network administrator who also works as a proofreader, and four typists during a session.
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> 37. The Internal Justice Council notes that the Redesign Panel recommended the Appeals Tribunal have, in addition to the Registrar, three legal officers and one administrative assistant (A/61/205, annex III). The Council also notes that the Secretary-General recommended a similar staffing level of three legal officers and three administrative assistants (A/62/294, annex IX). The Council requests the General Assembly to reconsider the recommendations of the Redesign Panel and of the Secretary-General with respect to the staffing of the Appeals Tribunal, so that it could have three legal officers, at least one of whom should be competent in French, and three legal assistants. The Council is of the view that this staffing level should be adequate to provide the President of the Appeals Tribunal with support relating to his or her functions ...

The Secretary-General in his report (A/65/373) stresses:

> 47. The Appeals Tribunal is a court of review, considering appeals from both staff and management. Additionally, pursuant to article 2.10 of the statute of the Appeals Tribunal, the Secretary-General has concluded agreements with five agencies that have access to the Tribunal as an administrative tribunal ...
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> 48. The current staffing of the Registry of the Appeals Tribunal cannot fully support the Tribunal and allow it to process the cases in a timely way. Given the staffing level of the Registry, there is a substantial likelihood that a new backlog of cases will accumulate at the appellate level. Delay was one of the negative attributes of the former system and allowing a new backlog at such an early stage in the new system's functioning would undermine an important part of the reform effort.

The Appeals Tribunal judges agree with the diagnosis of both reports. They insist on the importance of giving the Appeals Tribunal the resources to perform its functions in a professional manner. The Administrative Tribunal of the International

Labour Organization, a similar court with an almost identical caseload, has more than twice the staff. With one legal officer and another post not regularly funded, the Appeals Tribunal has been placed in a precarious and detrimental situation that undermines the whole system of administration of justice in the United Nations.

These are some of the immediate changes necessary for the proper functioning of the United Nations Appeals Tribunal as a professional, transparent, independent court.

Jean Courtial
President
20 October 2010